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REMARKS

It is respectfully requested that this Amendment be entered in the above-identified application prior to continued examination.

Initially, the Applicants would like to thank the Examiner for the indication in the Final Official Action that claims 21, 22, 24 and 35-37 are allowed and that claim 18 contains allowable subject matter.

In the Final Official Action, the Examiner rejects claims 16, 17, 19 and 20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,766,189 to Matsuno (hereinafter "Matsuno").

In the Final Official Action, the Examiner argues that Matsuno discloses all of the features of claims 16, 17, 19 and 20. Applicants respectfully disagree.

Specifically, the Examiner argues that the recess (2e) of the clip (2) disclosed in Matsuno is equivalent to the through hole (e.g., reference numeral 21 in Figures 11a and 11b and reference numerals 21a to 21d in Figures 23A to 23D) recited in claim 16 and disclosed in the present application. The Applicants respectfully disagree. However, in the interests of advancing prosecution, independent claim 16 has been amended to clarify the differences between the recited ligating apparatus and that which is disclosed in Matsuno. Claims 19 and 20 have also been amended to be consistent with their amended base claim (16).

Specifically, claim 16 has been amended to recite:

a clip having a base end and at least two arm portions extending from the base end, each of the arm portions having a holding portion apart from the base end, and the base end having a through hole which is extended in the advancing direction and through which said manipulating wire is inserted, the manipulating

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wire including a tip end which is projected from the through hole and positioned between the arm portions; and

a stopper having a bulged portion formed at the tip end of the manipulating wire, the bulged portion having a larger diameter or width than that of the through hole so that the bulged portion engages with the base end;

wherein the base end and/or bulged portion is deformed when the manipulating wire is moved in the retreating direction against the base end of the clip, so that the diameter or width of the bulged portion becomes relatively smaller than that of the through hole and is disengaged with the base end whereby the tip end of the manipulating wire is removed from the base end through the through hole.

Matsuno simply does not suggest or disclose such features. The amendments to claims 16, 19 and 20 are fully supported in the original disclosure. Thus, no new matter has been introduced into the disclosure by way of the present amendment.

As discussed in a previous Response, in a hooking-type engagement as described in Matsuno, a strong force is needed for disengaging. In a ligating apparatus, which must be structured to be as delicate as possible, it is highly advantageous to use a small force for disengaging. The configuration recited in claim 16 provides such a small force for disengaging and is therefore advantageous to the configuration disclosed in Matsuno.

With regard to the rejection of claims 16, 17, 19 and 20 under 35 U.S.C. § 102(b), a ligating apparatus having the features discussed above and as recited in independent claim 16 is nowhere disclosed in Matsuno. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,"¹ independent claim 16 is not anticipated by Matsuno. Accordingly, independent claim 16 patentably distinguishes over Matsuno and is

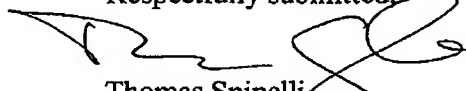
¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

allowable. Claims 17, 19 and 20 being dependent upon claim 16, are thus at least allowable therewith.

Furthermore, new claims 38-41 have been added to further define the patentable invention. New claims 38-41 are fully supported in the original disclosure. Thus, no new matter has been entered into the disclosure by way of the addition of new claims 38-41. Applicants respectfully submit that new claims 38 and 39 are at least allowable as depending upon an allowable base claim (16). Furthermore, Applicants further submit that new independent claim 40 patentably distinguishes over the prior art and is allowable and that claim 41 is at least allowable as being dependent therefrom.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli
Registration No.. 39,533

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS:cm